

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KATY STAPLETON,

Plaintiff,

-v-

NEW YORK CITY DEPARTMENT OF EDUCATION,
et al.,

Defendants.

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22 Civ. 9351 (PAE) (SDA)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

Plaintiff Katy Stapleton, a Spanish teacher, here brings claims against her employer, New York City Department of Education (“NYCDOE”), and her coworkers, Juan Villar, Bienvenida Galvez, Sofia Russo, Elizabeth Payero, Randall Chenevert, and Marilyn Ramirez. Stapleton brings three claims. First, she brings against all defendants a First Amendment retaliation claim under 42 U.S.C. § 1983. *See* Dkt. 1 (“Compl.”) at 10–11. Second, she brings against NYCDOE a retaliation claim under the Rehabilitation Act, 29 U.S.C. § 794 *et seq.* *See id.* at 11–12. Third, she brings a defamation claim against Ramirez under state law. *See id.* at 12.

Currently pending is defendants’ joint motion to dismiss all claims. *See* Dkt. 28. Before the Court is the September 6, 2023 Report and Recommendation of the Hon. Stewart D. Aaron, United States Magistrate Judge, recommending that the Court grant in part and deny in part defendants’ motion. Dkt. 19 (“Report”). Specifically, the Report recommends that the Court (1) dismiss Stapleton’s defamation claim and (2) grant Stapleton leave to amend her two federal claims, as she has requested. *See id.* at 16. The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts Judge Aaron’s recommendations in full.

DISCUSSION

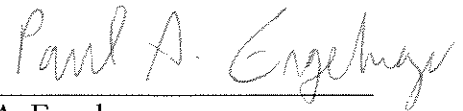
In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Aaron’s thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that “failure to object within fourteen (14) days will result in a waiver of objections and will preclude appellate review,” Report at 17, the parties’ failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

CONCLUSION

For the foregoing reasons, the Court accepts and adopts Judge Aaron’s Report in its entirety. The Court thus dismisses Stapleton’s defamation claim and grants Stapleton leave to amend her federal claims. The Court respectfully directs the Clerk of the Court to terminate the motion at docket 28. The case remains under the able pretrial supervision of Judge Aaron.

SO ORDERED.

A handwritten signature in cursive script, reading "Paul A. Engelmayer". The signature is written in dark ink and is positioned above a horizontal line.

Paul A. Engelmayer
United States District Judge

Dated: September 21, 2023
New York, New York